

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA

THIS DOCUMENT RELATES TO:

ALL CASES

This matter is before the court on Plaintiffs' Motion to Compel the Production by Defendant of Alternatives and Other Lawsuits. [DE-129]. Defendant, Murphy-Brown LLC ("Defendant" or "Murphy-Brown") filed a response in opposition to the motion. [DE-153]. The court held a telephonic hearing on July 28, 2016 to further develop the issues, and the matter is ripe for ruling. For the reasons stated in the hearing and incorporated herein, the motion is denied.

Rule 37 of the Federal Rules of Civil Procedure provides that “[a] party seeking discovery may move for an order compelling an answer, designation, production, or inspection” if a party fails to produce or make available for inspection requested documents under Rule 34. Fed. R. Civ. P. 37(a)(3)(B)(iv). “[T]he court has ‘substantial discretion’ to grant or deny motions to compel discovery.” *English v. Johns*, No. 5:11-CT-3206-D, 2014 WL 555661, at *4 (E.D.N.C. Feb. 11, 2014) (unpublished) (quoting *Lone Star Steakhouse & Saloon, Inc. v. Alpha of Va., Inc.*, 43 F.3d 922, 929 (4th Cir. 1995)).

Plaintiffs seek to compel the production of documents regarding alternative waste and odor control measures used in other states and on similar claims and lawsuits in other states. [DE-129] at 1. At the hearing the parties reached an agreement to resolve the dispute regarding the production

of documents regarding lawsuits in other states. For the reasons stated at the hearing, the court finds Plaintiffs' requests regarding alternative waste and odor control measures used in *other states* to be overly broad and marginally relevant. Plaintiffs have access to information regarding the feasibility of alternative technologies in North Carolina through a neutral third-party study conducted by N.C. State that considered alternative methods, and Defendant has produced all documents in its possession related to that study. Defendant has also produced documents related to alternative technologies tested or implemented at its North Carolina farms, including those not at issue in this litigation, which include some of the alternative technologies utilized in other states. Accordingly, the motion is denied.

SO ORDERED, the 21 day of July 2016.



Robert B. Jones, Jr.
United States Magistrate Judge